

1095--A

2011-2012 Regular Sessions

I N S E N A T E

January 5, 2011

Introduced by Sens. PARKER, DUANE, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property law, in relation to recording of restrictive covenant modification documents

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The real property law is amended by adding a new section
2 291-j to read as follows:
3 S 291-J. RECORDING OF RESTRICTIVE COVENANT MODIFICATION DOCUMENT. 1.
4 (A) IF ANY COVENANTS, CONDITIONS AND RESTRICTIONS EXIST IN A DOCUMENT TO
5 BE RECORDED WHICH DISCRIMINATE ON THE BASIS OF RACE, COLOR, RELIGION,
6 SEX, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, NATIONAL ORIGIN,
7 SOURCE OF INCOME, OR ANCESTRY THEN ANY TITLE INSURANCE COMPANY, TITLE
8 ABSTRACT COMPANY OR ESCROW COMPANY, SHALL:
9 (I) NOTIFY IN AT LEAST EIGHTEEN-POINT BOLDFACE TYPE ON A SEPARATE PAGE
10 WITHIN THE TITLE ABSTRACT REPORT TO THE PURCHASER/TITLE INSURANCE APPLI-
11 CANT, THE FOLLOWING LANGUAGE: "THIS DOCUMENT CONTAINS ILLEGAL
12 RESTRICTIONS BASED ON RACE, COLOR, RELIGION, SEX, FAMILIAL STATUS, MARI-
13 TAL STATUS, DISABILITY, NATIONAL ORIGIN, SOURCE OF INCOME, OR ANCESTRY,
14 THAT VIOLATE STATE AND FEDERAL HOUSING LAW." THE PURCHASER/TITLE INSUR-
15 ANCE APPLICANT OF REAL PROPERTY MAY HAVE SUCH ILLEGAL RESTRICTIONS
16 REMOVED FROM SUCH DOCUMENT BY SUBMITTING A RESTRICTIVE COVENANT MODIFI-
17 CATION DOCUMENT, WHICH SHALL BE AVAILABLE FROM THE COUNTY RECORDER,
18 EITHER WITH THE DEED FOR RECORDING, OR SEPARATELY;
19 (II) PROVIDE THE PURCHASER/TITLE INSURANCE APPLICANT WITH A LEGIBLE
20 COPY OF THE ILLEGAL LANGUAGE ON A SEPARATE PAGE IN THE TITLE ABSTRACT
21 REPORT;

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 (III) PROVIDE THE PURCHASER/TITLE INSURANCE APPLICANT WITH A COPY OF
2 THE APPROPRIATE RESTRICTIVE COVENANT MODIFICATION DOCUMENT PRIOR TO OR
3 AT THE CLOSING OF TITLE;

4 (IV) RECORD THE RESTRICTIVE COVENANT MODIFICATION DOCUMENT, WHICH
5 PURCHASER SHALL PAY THE APPROPRIATE FILING FEES, UNLESS THE
6 PURCHASER/TITLE INSURANCE APPLICANT OBJECTS IN WRITING.

7 (B) THIS SECTION SHALL NOT APPLY TO ANY LAWFUL RESTRICTIONS UNDER
8 STATE AND FEDERAL HOUSING LAW.

9 2. THE RESTRICTIVE COVENANT MODIFICATION DOCUMENT SHALL BE INDEXED IN
10 THE SAME MANNER AS ANY PREVIOUSLY RECORDED DOCUMENT OR DOCUMENTS TO
11 WHICH THE MODIFICATION DOCUMENT REFERS AND SHALL REFERENCE THE ORIGINAL
12 DOCUMENT BY BOOK AND PAGE OR INSTRUMENT NUMBER AND THE DATE OF RECORD-
13 ING.

14 3. SUBJECT TO COVENANTS, CONDITIONS, AND RESTRICTIONS RECORDED AFTER
15 THE ORIGINAL DOCUMENT CONTAINING UNLAWFUL RESTRICTIONS, AND SUBJECT TO
16 COVENANTS, CONDITIONS AND RESTRICTIONS RECORDED AFTER THE RESTRICTIVE
17 COVENANT MODIFICATION DOCUMENT, THE RESTRICTIVE COVENANT MODIFICATION,
18 ONCE RECORDED, SHALL BE DEEMED THE ONLY RESTRICTIONS HAVING EFFECT ON
19 THE PROPERTY.

20 4. ANY PERSON HOLDING AN OWNERSHIP INTEREST IN REAL PROPERTY THAT HE
21 OR SHE BELIEVES IS SUBJECT TO AN UNLAWFULLY RESTRICTIVE COVENANT IN
22 VIOLATION OF STATE OR FEDERAL LAW PROHIBITING RESTRICTION BASED ON RACE,
23 COLOR, RELIGION, SEX, FAMILIAL STATUS, MARITAL STATUS, DISABILITY,
24 NATIONAL ORIGIN, SOURCE OF INCOME, OR ANCESTRY MAY RECORD A RESTRICTIVE
25 COVENANT MODIFICATION DOCUMENT PURSUANT TO SUBDIVISION ONE OF THIS
26 SECTION. SUCH RECORDING SHALL INCLUDE A COMPLETE COPY OF THE ORIGINAL
27 DOCUMENT CONTAINING THE ILLEGAL LANGUAGE WITH THE ILLEGAL LANGUAGE
28 STRICKEN AND SHALL BE SIGNED UNDER PENALTY OF LAW.

29 5. THE COUNTY RECORDER SHALL MAKE AVAILABLE TO THE PUBLIC FORMS FOR
30 PREPARATION OF A RESTRICTIVE COVENANT MODIFICATION DOCUMENT.

31 6. IF THE HOLDER OF AN OWNERSHIP INTEREST IN PROPERTY CAUSES TO BE
32 RECORDED A RESTRICTIVE COVENANT MODIFICATION DOCUMENT PURSUANT TO THIS
33 SECTION WHICH CONTAINS LANGUAGE NOT AUTHORIZED BY THIS SECTION, ANY
34 LIABILITY WHICH DERIVES FROM SUCH RECORDING SHALL BE THE SOLE RESPONSI-
35 BILITY OF THE HOLDER OF THE OWNERSHIP INTEREST OF RECORD AND THE COUNTY
36 RECORDER SHALL NOT INCUR ANY LIABILITY FOR RECORDING SUCH DOCUMENT.

37 S 2. This act shall take effect on the one hundred eightieth day after
38 it shall have become a law; provided, however that effective immediate-
39 ly, the addition, amendment and/or repeal of any rule or regulation
40 necessary for the implementation of this act on its effective date are
41 authorized and directed to be made and completed on or before such
42 effective date.